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FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

FIRST GENERAL COUNSEL'S REPORT

CELA

MUR: 6996

DATE COMPLAINT FILED: December 24, 2015

DATE OF NOTIFICATION: January 7, 2016

DATE ACTIVATED: June 8, 2016

EARLIEST SOL: January 1, 2020

LATEST SOL: January 1, 2020

ELECTION CYCLE: 2016

COMPLAINANT:

Meghan Conklin

RESPONDENTS:

A Whole Lot of People for Grijalva Congressional
Committee and Maya Castillo in her official
capacity as treasurer

Amy Emerick-Clerkin

Peter Clerkin

RELEVANT STATUTES:

52 U.S.C. § 30104(b)

52 U.S.C. § 30114(b)(1)

INTERNAL REPORTS CHECKED:

Disclosure Reports

FEDERAL AGENCIES CHECKED:

None

I. INTRODUCTION

The Complaint in this matter alleges that Amy Emerick-Clerkin and Peter Clerkin embezzled funds from A Whole Lot of People for Grijalva Congressional Committee ("Committee"), the campaign committee of U.S. Representative Raul Grijalva, in violation of the Federal Election Campaign Act of 1971, as amended (the "Act"). As discussed below, the available information does not indicate that Respondents embezzled funds from the Committee. Therefore, we recommend that the Commission find no reason to believe that Respondents violated the Act and close the file.

1 **II. FACTUAL AND LEGAL ANALYSIS**

2 **A. Factual Background**

3 The Committee is the principal campaign committee of Representative Raul Grijalva, a
4 candidate for reelection in Arizona's Third Congressional District in 2016. Amy Emerick-
5 Clerkin is the Chief of Staff to Rep. Grijalva, and Peter Clerkin, her husband, is a former
6 consultant to the Committee.¹ The Complainant alleges that in January 2015, she was informed
7 by Laura Kaumo, a former fundraiser for the Committee, that Amy Emerick-Clerkin and Peter
8 Clerkin "were engaged in embezzlement of funds from [the Committee]."² The Complainant
9 alleges that Kaumo "discovered that campaign cash and checks had gone missing at the hands of
10 Mr. and Mrs. Clerkin, and that she kept detailed records of her concerns about the activity."³
11 The Complainant also alleges that Kaumo had "noticed multiple inconsistencies and
12 irregularities made by Mr. Clerkin to the online fundraising database for [the Committee]," and
13 that "[w]hen [Kaumo] raised concerns about the matter, she was blocked from access to the
14 database."⁴ The Complainant alleges that a second source, Chris Kaumo, a staff member to Rep.
15 Grijalva and Laura Kaumo's husband, confirmed this information.⁵

16 In a joint response, Amy Emerick-Clerkin and Peter Clerkin ("the Clerkins"), deny the
17 allegations.⁶ In sworn declarations, the Clerkins deny having misappropriated or embezzled
18 funds from the Committee and deny any knowledge of cash or checks going missing that would

¹ See Compl. at 1; Clerkins' Resp. at 1, Decl. of Peter Clerkin ¶ 1.

² Compl. at 1.

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ According to the Clerkins, Complainant worked briefly in early 2015 for the House Committee on Natural Resources, on which Rep. Grijalva is the ranking member. Clerkins' Resp. at 2.

1 suggest misappropriation or embezzlement.⁷ Additionally, Peter Clerkin denies making changes
2 to the Committee's fundraising database that resulted in inconsistencies or irregularities in the
3 Committee's reporting and recordkeeping.⁸ The Clerkins also submitted sworn declarations
4 from Laura Kaumo and Chris Kaumo averring that they had no knowledge that the Clerkins
5 embezzled funds from the Committee, and would have reported information regarding any
6 embezzlement to Rep. Grijalva or the proper authorities.⁹

7 The Clerkins further assert that Complainant failed to provide information supporting an
8 actual embezzlement or misappropriation; she merely reported hearing that campaign cash and
9 checks had gone missing.¹⁰ They maintain that Complainant offers no details about the allegedly
10 missing funds, such as when the funds went missing, the names of the purported contributors, or
11 the amounts, that might help the Commission determine whether a misappropriation or
12 embezzlement actually occurred, or give Respondents an opportunity to provide a detailed
13 response.¹¹

14 For its part, the Committee asserts that it did not receive any report of an embezzlement
15 prior to the Complaint, which was filed eleven months after Complainant alleges she became
16 aware of it.¹² The Committee further asserts that at the time of the alleged embezzlement, it
17 maintained, and continues to maintain, internal controls to diminish the risk of embezzlement,
18 and used a compliance firm from 2012 to 2015 to review its receipts and disbursements, enter

⁷ See Decl. of Amy Emerick-Clerkin ¶ 8; Decl. of Peter Clerkin ¶ 6.

⁸ Decl. of Peter Clerkin ¶ 7.

⁹ Decl. of Laura Kaumo ¶ 6; Decl. of Christopher Kaumo ¶ 7.

¹⁰ Clerkins' Resp. at 2.

¹¹ *Id.*

¹² Committee Resp. at 1.

1 items into the database, prepare and file reports, and perform reconciliations of the Committee's
2 accounts.¹³ The Committee asserts that it complied with the Commission's Statement of Policy
3 concerning the Safe Harbor for Misreporting Due to Embezzlement.¹⁴

4 **B. Legal Analysis**

5 The Act prohibits any person from converting contributions to a federal candidate to
6 personal use.¹⁵ "Personal use" is defined as the use of funds in a campaign account of a federal
7 candidate "to fulfill a commitment, obligation or expense of a person that would exist
8 irrespective of the candidate's election campaign or individual's duties as a holder of Federal
9 office."¹⁶

10 The Act also requires committee treasurers to file reports of receipts and disbursements in
11 accordance with the provisions of 52 U.S.C. § 30104.¹⁷ These reports must include, *inter alia*,
12 the total amount of disbursements, including the name and address of each person to whom an
13 expenditure exceeding \$200 is made together with the date, amount, and purpose of the
14 expenditure.¹⁸

15 The Complainant alleges Laura Kaumo informed her that Committee cash and checks
16 went missing at the hands of the Clerkins, and that Chris Kaumo confirmed this information.
17 The Kaumos, however, each provided a sworn declaration denying any knowledge of any

¹³ *Id.* at 2.

¹⁴ *Id.* See Statement of Policy, Safe Harbor for Misreporting Due to Embezzlement, 72 Fed. Reg. 16,695 (Apr. 5, 2007).

¹⁵ 52 U.S.C. § 30114(b)(1).

¹⁶ 52 U.S.C. § 30114(b)(2).

¹⁷ 52 U.S.C. § 30104(a)(1).

¹⁸ See 52 U.S.C. § 30104(b)(4) and (5)(A).

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embezzlement from the Committee, and of any inconsistencies or irregularities regarding the Committee's database that would suggest an embezzlement. Similarly, the Clerkins submitted sworn declarations denying that they embezzled funds from the Committee. The Complaint provides no other information supporting the allegations. Thus, there does not appear to be information to support the Complainant's allegations or to conclude that the Committee committed any related reporting violations.¹⁹ We therefore recommend that the Commission find no reason to believe that Amy Emerick-Clerkin or Peter Clerkin violated 52 U.S.C. § 30114(b)(1), and no reason to believe that the Committee violated 52 U.S.C. § 30104(b).

III. RECOMMENDATIONS

1. Find no reason to believe that Amy Emerick-Clerkin violated 52 U.S.C. § 30114(b)(1);
2. Find no reason to believe that Peter Clerkin violated 52 U.S.C. § 30114(b)(1);
3. Find no reason to believe that A Whole Lot of People for Grijalva Congressional Committee and Maya Castillo in her official capacity as treasurer violated 52 U.S.C. § 30104(b);
4. Approve the attached Factual and Legal Analysis;
5. Approve the appropriate letters; and

¹⁹ The Reports Analysis Division's log of communications with the Committee does not contain any communications concerning embezzlement of Committee funds.

6. Close the file.


Daniel A. Petalas
Acting General Counsel

8.4.16

Date


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